

STATE OF WASHINGTON
GAMBLING COMMISSION

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| In the Matter of the Revocation of the License |) | NO. CR 2009-00295 |
| to Conduct Gambling Activities of: |) | |
| |) | <i>AMENDED</i> |
| Angela Pagnossin |) | NOTICE OF ADMINISTRATIVE |
| Burien, Washington, |) | CHARGES AND OPPORTUNITY |
| |) | FOR AN ADJUDICATIVE |
| Licensee. |) | PROCEEDING |
| | | <i>*Amendments are italicized</i> |

I.

The Washington State Gambling Commission issued Angela Pagnossin the following license:

Number 68-035614, Authorizing Card Room Employee Activity at Roxy's Bar & Grill in Seattle.

The license, which expires on September 1, 2009, was issued subject to the licensee's compliance with state gambling laws and Commission rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230.

1) In February 2009, Commission staff received a complaint against Roxy's Bar & Grill (Roxy's). While investigating the complaint, a Commission Special Agent (agent) found the following:

- a) Between May 27, 2008, and May 30, 2008, the licensee cashed twelve checks totaling \$13,600 at her employer, Roxy's Bar & Grill (Roxy's).
- b) The twelve checks were returned as Non Sufficient Funds (NSF). The licensee had repaid one of the checks and eleven checks were still outstanding.

2) On February 20, 2009, a Commission Special Agent (agent) was in the accounting office at Roxy's and the agent asked the licensee about the NSF checks. The licensee told the agent the following:

- a) She was trying to buy a house and was short on money. She received employee advances and a loan from Glenda and Doug Harrell, owners of Roxy's, to help put money down on the house.
- b) When it came time to buy the house, she was not making much money and had a poor debt to income ratio.

- c) She cashed the checks at Roxy's and hoped to finish buying the house before the checks cleared her bank account. That way her bank account would show that she had more money than she actually had.¹
 - d) The Internal Revenue Service (IRS) eventually froze her account.
 - e) She has done some things that weren't right, but she didn't think she was a bad person because she was just trying to save her house.
- 3) On that same day, the agent also talked with Glenda Harrell, President of Roxy's. Ms. Harrell told the agent the following:
- a) They have a spreadsheet with a payment plan for the money that the licensee owes Roxy.
 - b) The licensee owed Roxy's \$11,804 in employee advances, \$7,300 for a loan, and \$13,730 for the NSF checks and fees.
 - c) The licensee paid off the employee advance and loan by having money taken out of her paycheck. She still owes Roxy's for the NSF checks and fees totaling \$12,530. The licensee has paid off one NSF check totaling \$1,200.
 - d) She did not know that the licensee cashed that many checks for such a large amount, and she was upset when she found out about it.
- 4) On April 9, 2009, the agent spoke to the licensee by telephone and asked her to come in for an interview. The licensee declined to be interviewed by the agent.
- 5) On April 15, 2009, the agent went to Roxy's and again talked with Glenda Harrell. Ms. Harrell told the agent the following:
- a) She did not know that the licensee cashed \$13,600 in checks at Roxy's and had she known the amount of the checks cashed, she would not have allowed that to happen.
 - b) She remembers the licensee telling her that a check may be returned. She did not think the amount would be \$13,000.
- 6) On April 20, 2009, the agent returned to Roxy's and received a written statement from Glenda Harrell. Ms. Harrell wrote in her statement:
- a) An accounting employee told her about the NSF checks that the licensee wrote.
 - b) The licensee told her that the checks were going to be returned because the IRS had frozen the licensee's bank account.
 - c) The licensee had paid back \$12,000. (Ms. Harrell verbally told the agent that the licensee owed more than \$32,000)
- 7) The agent retrieved the licensee's check history from LandMark Group Holdings, Inc. (LandMark), which is a company that is commonly used to verify if someone has any outstanding checks. Landmark showed that from May 27, 2008, to May 30, 2008, the licensee

¹ Ten thousand dollars was deposited into the licensee's bank account during the days she wrote the NSF checks. The licensee had a better chance of buying a house if she had a large amount of money in her bank account.

cashed twelve NSF checks to Roxy's and on June 22, 2008, and she cashed one NSF check to Fast Cash Loans for \$795. The check history showed that the licensee paid off only one of twelve NSF checks written to Roxy's for \$1,200.

8) The agent contacted Fast Cash Loans and confirmed that the licensee has an outstanding check with the company and owes \$820 for the NSF check and fees. The check was sent to a collection agency.

9) The agent contacted the licensee's bank and found out the following:

- a) The licensee and Donald R. Harris have a joint account.
- b) Between May 27, 2008, and May 30, 2008, \$10,000 was deposited into the licensee's bank account.
- c) On June 2, 2008, the licensee placed a block on the bank account so that checks would not be withdrawn from her bank account. The agent confirmed with the bank that the licensee placed the block on the account.

10) The agent reviewed Roxy's payroll records for the licensee for March 2008 through July 2008. The licensee's monthly net income from working at Roxy's during that time was never more than approximately \$3,623. The licensee's monthly income was significantly less than the \$13,660 in checks that she cashed at Roxy's on May 27, 2008 through May 30, 2008.

11) The licensee had the previous administrative action: In December 2004, the Director issued administrative charges for extension of credit and failure to replace all of the chips she removed from the poker bank to play poker. The licensee admitted she had owed money to her poker bank in the past, but that she made up the difference by accessing cash from a cash machine and replacing any monies owed. The licensee settled these charges in February 2005 by surrendering her license and not reapplying for one year. (CR 2004-01288)

VIOLATIONS:

RCW 9.46.075(1), (8), and (10) Denial, suspension, or revocation of license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal² or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

WAC 230-03-085(1) and (8), Denying, suspending, or revoking an license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

² **RCW 9A.56.060 Unlawful issuance of checks or Drafts.**

(1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he or she has not sufficient funds in, or credit with the bank or other depository, to meet the check or draft, in full upon its presentation, is guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor the check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing the check or draft is guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of seven hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

(4) Unlawful issuance of a bank check in an amount greater than seven hundred fifty dollars is a class C felony.

(5) Unlawful issuance of a bank check in an amount of seven hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

(a) The court shall order the defendant to make full restitution;

(b) The defendant need not be imprisoned, but the court shall impose a fine of up to one thousand one hundred twenty-five dollars. Of the fine imposed, at least three hundred seventy-five dollars or an amount equal to one hundred fifty percent of the amount of the bank check, whichever is greater, shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may not suspend or defer any portion of the fine.

RCW 9.38.010 False Representation concerning credit

Every person who, with intent thereby to obtain credit or financial rating, shall wilfully make any false statement in writing of his assets or liabilities to any person with whom he may be either actually or prospectively engaged in any business transaction or to any commercial agency or other person engaged in the business of collecting or disseminating information concerning financial or commercial ratings, shall be guilty of a misdemeanor.

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.153(1) Applicants and licensees- Responsibilities and duties

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

RCW 9.46.190 Violations relating to fraud or deceit

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

- (1) Employ any device, scheme, or artifice to defraud; or
- (2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or
- (3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

The licensee made an untrue statement when she told the agent and her employer that the checks were NSF because the IRS had frozen her bank account. In fact, after writing the twelve checks to her employer, the licensee put the block on her bank account so that the checks would not be withdrawn. The licensee's actions are fraud or deceit under RCW 9.46.190.

The licensee admitted that she wanted it to appear as if she had more money in her bank account than what she actually had so that she could buy a house. The licensee knew that because she was an employee of Roxy's, she could cash multiple checks for \$13,600 without being questioned. During the three days that the licensee cashed the NSF checks at Roxy's, \$10,000 was deposited into the licensee's bank account. Shortly after writing the checks to Roxy's, the licensee put a block on her bank account so the checks cashed at Roxy's could not be withdrawn. All twelve checks were returned to Roxy's as NSF. The licensee's actions demonstrate fraud and deceit, in violation of RCW 9.46.190.

The licensee used her position as an employee at Roxy's to pursue economic gain and her participation in gambling related activities would be inimical to the proper operation of gambling. Additionally, her conduct demonstrates that she poses a threat to the effective regulation of gaming and increases the likelihood of illegal practices as demonstrated through her actions.

